

## **ADVISORY OPINION 98-004**

**Any advisory opinion rendered by the Registry under subsections (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).**

September 19, 2006

Hon. Howard E. Frasier, Jr.  
Sheffer & Hoffman  
Fountain Square  
400 E. Main St., Ste. 300  
Bowling Green, Kentucky 42101

Dear Mr. Frasier:

This is in response to your April 2, 1998, request for an advisory opinion regarding whether a candidate's duties as primary spokesperson for a corporation would violate Kentucky's campaign finance laws. Your letter indicates that since 1995, Brett Guthrie, a candidate for the Kentucky Senate, has acted as the primary spokesperson for Trace Die Cast, Inc. ("Trace") of Bowling Green, Kentucky. In addition, Mr. Guthrie is an active supporter and public spokesman for the athletics of Western Kentucky University ("WKU").

According to your letter, Mr. Guthrie's functions as spokesperson for Trace and WKU have included the following: public speaking on behalf of Trace, radio and print advertisements for Trace, and radio and print advertisements encouraging other businesses to participate in WKU's scholarship fund. Mr. Guthrie intends to continue lending his appearance, picture and voice to advertisements for Trace and WKU. However, in all advertisements, whether print or broadcast, there will be no reference to Mr. Guthrie's candidacy.

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Provided that the advertisements and other functions in which Mr. Guthrie engages as spokesperson do not “expressly advocate the election or defeat of a clearly identified candidate, slate of candidates, or group of candidates for nomination or election to any public office,” they would not constitute in-kind contributions as defined by KRS 121.015(6) or political advertisements as defined by KRS 121.065(2). See Advisory Opinion 97-010. As such, the Mr. Guthrie’s functions as spokesperson for Trace and WKU would not be subject to the jurisdiction of the Kentucky Registry of Election Finance.

However, note that federal law imposes upon broadcasters equal time requirements for political candidates. 47 USC Sec.315. Regarding these requirements, you may wish to consult the broadcasters that air the advertisements identifying Mr. Guthrie or the Federal Communications Commission.

In sum, if the advertisements containing Mr. Guthrie’s voice, name or image do not advocate his candidacy for public office, they are not political advertising within the meaning of KRS Chapter 121. Mr. Guthrie may continue his regular functions as spokesperson for Trace and WKU, including advertisements which were airing or planned before his candidacy and which are intended to promote his company and the athletic scholarship fund for WKU.

Sincerely,

Rosemary F. Center  
General Counsel

RFC/db